IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 8180 of 2001

For Approval and Signature:
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UTTAMBHAI KALUBHAI GANGURDE

Versus

PRINCIPAL

Appearance: MR DP VORA for Petitioner Nos. 1-2
Mr.K.P.Raval, Assistant GOVERNMENT PLEADER,
for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR
Date of decision: 18/08/2003

ORAL JUDGEMENT

1. Rule. Mr.K.P. Raval, learned AGP, waives service of rule on behalf of the respondents.

With the consent of the parties, the matter is taken up for final hearing today.

2. By filing this petition, the petitioners have challenged the action of the respondents in reducing them in the time scale and effecting recovery of the same.

The grievance of the petitioners is that, initially, they were appointed on ad hoc basis and on completion of six years of service, the petitioners have been granted senior scale, which is now ordered to be

withdrawn with the consequential order of recovery. It is pointed out by the learned Advocate for the petitioners that the impugned order is passed without hearing the petitioners. It is submitted that, both the petitioners are now selected through the GPSC. In my view, all these points are required to be considered by the respondents, but at least the petitioners were required to be heard before passing any adverse order of recovery or taking away time scale given to them. Under the circumstances, since the order in question is passed without hearing the petitioners, the impugned order is quashed and set aside. Respondent No.2 may accordingly hear the petitioners and therafter, pass an appropriate consequential order in accordance with law. Since no hearing was given to the petitioners and since that aspect is not in dispute, the matter is required to be allowed only on that limited ground. It is clarified that this Court has not expressed any opinion and it is for the Government to take appropriate decision in accordance with law.

3. The petition is partly allowed accordingly. Rule is made absolute accordingly with no order as to costs.

18th August, 2003 (P.B. Majmudar, J.)

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(apj)